

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

CORDELL MOODY

Plaintiff,

v.

**Z. FOWLER, JOHN ATTANASIO and
SMU,**

Defendants.

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CIVIL ACTION NO. 3:10-cv-00729-M

**DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S COMPLAINT UNDER RULE
12(B)(6) OF THE FEDERAL RULES OF CIVIL PROCEDURE AND 28 U.S.C. 1915(e)**

COME NOW Defendants Southern Methodist University, a Texas non-profit corporation, Dean John Attanasio, and Officer Zachary Fowler and hereby move the Court pursuant to Federal Rule of Civil Procedure 12(b)(6) and 28 U.S.C. § 1915(e) to dismiss the complaint of Cordell Moody as to all Defendants because Moody's complaint is frivolous and malicious and because Moody has failed to state a claim on which relief can be granted. For the reasons set forth in the accompanying Brief in Support, Defendants respectfully request the Court to grant this Motion and to dismiss Moody's complaint as to all Defendants.

Dated: April 16, 2010.

Respectfully submitted,

/s/ John H. McElhaney /s/

John H. McElhaney

Texas Bar No. 13581000

Christopher M. Bass

Texas Bar No. 24050262

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ATTORNEYS FOR DEFENDANTS

SOUTHERN METHODIST UNIVERSITY,

DEAN JOHN ATTANASIO AND OFFICER

ZACHARY FOWLER

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument was forwarded to the following parties consistent with the Federal Rules of Civil Procedure on this 16th day of April, 2010:

Cordell Moody
9030 Pinewood
Dallas, Texas 75243

/s/ Christopher M. Bass /s/

Christopher M. Bass